

REMARKS/ARGUMENTS

The claims are 1-7, 9-11, 14 and 15, claims 10, 11, 14 and 15 having been rejoined by the previous Examiner in the Notice of Allowability attached to the Notice of Allowance mailed December 1, 2006. In the Office Action dated February 5, 2007 following Applicants' request for continued examination filed December 5, 2006, the Examiner indicated that only claims 1-7 and 9 were pending in the application, which it is respectfully submitted is incorrect.

Claims 1-4 were rejected under 35 U.S.C. 103(a) as being unpatentable over the previously-cited *Johnson et al. U.S. Patent No. 5,769,826*, which the former Examiner already determined did not anticipate or render obvious these claims. Claim 5 was rejected under 35 U.S.C. 103(a) as being unpatentable over *Johnson et al.* in view of *Crawford et al. U.S. Patent No. 6,306,118*, and claims 6-7 and 9 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Johnson et al.* in view of *Wanamaker et al. U.S. Patent No. 5,117,837*.

Essentially the Examiner's position was that *Johnson et al.*

shows the hollow needle holder recited in the rejected claims, including the closure device for closing the hollow needle container, except for features which the Examiner considers either within the skill of the art or taught by the secondary references to *Crawford et al.* (claim 5) and *Wanamaker et al.* (claims 6-7 and 9).

This rejection is respectfully traversed.

Applicants would like to point out that MPEP 706.04 instructs that a previous action by a different Examiner should be given full faith and credit unless there is a clear error in the previous action or knowledge of other prior art that warrants the unusual step of rejecting a previously allowed claim.

Here, Applicants' response to the Final Office Action filed October 18, 2006 clearly set forth the reasons why, contrary to the Examiner's position, *Johnson et al.* fails to disclose or suggest a hollow needle attachable to the hollow needle fixing device from the outside to an opening in the second face of the hollow needle container. (See FIG. 1 of *Johnson et al.*) As

explained in Applicants' October 18, 2006 Response, in contrast to Applicants' invention as set forth in claim 1, in *Johnson et al.* it is not possible to screw in or attach the hollow needle through an opening in the second face because this second face is covered by a rubber puncture pad 80 with self-sealing functionally after retraction of the needle.

In addition, although the Examiner has acknowledged that *Johnson et al.* does not expressly disclose an apparatus where the locking mechanism includes a closure device, the Examiner states that this feature would have been an obvious matter of design choice to a person of ordinary skill in the art because according to the Examiner Applicants have not disclosed that having the locking mechanism integral with the closure device provides an advantage. This position by the Examiner, however, is incorrect.

By combining the unlocking mechanism and the closure device, the hollow needle holder is directly and completely closed when the unlocking mechanism is activated. Therefore, as disclosed in Applicants' specification on page 11, last paragraph, it is possible to reliably achieve the result that the hollow needle

holder is always closed, without the second face having to be sealed with an additional manipulation, for example, by applying a cap.

In contrast to Applicants' invention as set forth in claim 1, the sealing mechanism of *Johnson et al.* has the problem that during a retraction of the needle, blood might be wiped off the needle by the seal (rubber puncture pad 80). This problem is avoided by the combination of the unlocking and sealing mechanism according to Applicants' invention as set forth in claim 1, because the used hollow needle freely falls into the hollow needle container after pressing the at least one slide of the unlocking mechanism. By continuously pressing the slide into the same direction, the second face of the hollow needle is then closed.

Therefore, it is respectfully submitted that the combination of the features that the needle is attached to the hollow needle fixing device from the outside through an opening in the second face of the hollow needle container (which is not possible using a seal 80 as disclosed in *Johnson et al.*) and combining the

unlocking mechanism with a closure device cannot be considered a mere design consideration, but rather represents an arrangement that enables an easy and safe use of the hollow needle holder which would not be apparent to one of ordinary skill in the art absent Applicants' disclosure.

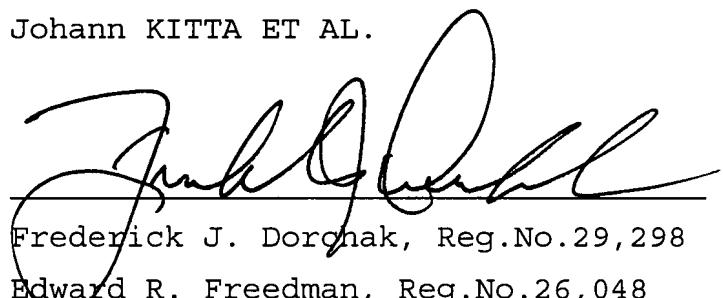
The remaining references cited by the Examiner to *Crawford et al.* and *Wanamaker et al.* fail to remedy the deficiencies and defects of the primary reference to *Johnson et al.* Each reference fails to disclose or suggest a locking mechanism including a closure device. In these patents, slides are provided that are displacable with respect to each other to form in one position an opening for attaching the hollow needle at the hollow needle holder. In another position, the opening can be enlarged so that the hollow needle falls into the hollow needle container. In no position of the slide, however, is it possible to close the hollow needle container.

Accordingly, it is respectfully submitted that claim 1 is patentable over the cited references together with claims 2-7,

9-11 and 14-15, which depend directly or indirectly thereon. In view of the foregoing, it is respectfully requested that the claims be allowed and that this application be passed to issue.

Applicants also submit herewith a Supplemental Information Disclosure Statement.

Respectfully submitted,
Johann KITTA ET AL.



Frederick J. Dorchak, Reg. No. 29,298
Edward R. Freedman, Reg. No. 26,048
Attorneys for Applicants

COLLARD & ROE, P.C.
1077 Northern Boulevard
Roslyn, New York 11576
(516) 365-9802

FJD:cmm

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on April 5, 2007.



Kelly Espitia